



Tom Tindall
Director

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To enrich lives through effective and caring service.



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December 16, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**REQUEST FOR APPROVAL OF ASSIGNMENT OF CONTRACT WITH LINK2GOV
CORP. AND MARSHALL & ILSLEY CORPORATION FOR ELECTRONIC PAYMENT
AND CREDIT/DEBIT CARD PROCESSING SERVICES TO LINK2GOV CORP. AND
METAVANTE CORPORATION
(ALL DISTRICTS – 3 VOTES)**

SUBJECT

Approval of the recommended action will assign the current contract for electronic payment and credit/debit card processing services.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Chairman to sign the attached amendment, assigning the contract with Link2Gov Corp. and Marshall & Ilsley Corporation to Link2Gov Corp. and Metavante Corporation, which is the parent company of Link2Gov Corp., to provide electronic payment and credit/debit card processing services.
2. Delegate authority to the Director of Internal Services Department, or his designee, to execute applicable contract amendments should the new contracting entity merge, be acquired or otherwise have a change of entity.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Contract with Link2Gov Corp. (Link2Gov) and Marshall & Ilsley Corporation (Marshall & Ilsley) provides County departments, districts and Treasurer Tax Collector (TTC) treasury pool participants with a mechanism to accept and process credit/debit cards and other forms of electronic payments. Currently Coroner, Probation, Animal Care and Control, TTC, Management Council, Public Works and LAUSD either utilize the services or are in the process of obtaining the services under this Contract.

The current Contract between the County and Link2Gov and Marshall & Ilsley was approved by your Board on April 4, 2006. At the time your Board approved the Contract, Link2Gov was a wholly-owned subsidiary of Metavante Corporation (Metavante), which in turn was a wholly-owned subsidiary of Marshall & Ilsley. Metavante and Link2Gov are now separated from Marshall & Ilsley and therefore, Marshall & Ilsley should no longer be party to the Contract. Metavante, who remains the parent company of Link2Gov, will assume Marshall & Ilsley's duties and obligations under the Contract.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The Contract supports the County's Strategic Plan Goal Number 1 for Service Excellence by providing continued service of electronic payment options for County departments and districts, government entities that are members of the TTC treasury pool and residents.

FISCAL IMPACT/FINANCING

This amendment will have no fiscal impact as it merely assigns the Contract.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The terms and conditions of the Contract with Link2Gov and Marshall & Ilsley were approved as to form by County Counsel prior to execution by your Board on April 4, 2006. The Contract contains the Board's required contract provisions including those pertaining to consideration of qualified County employees targeted for layoffs as well as qualified GAIN/GROW participants for employment openings, compliance with the Jury Service Ordinance, Safely Surrendered Baby Law and the Child Support program. This contract is not a Proposition A agreement and therefore, the Living Wage Program (County Code Chapter 2.201) does not apply to the Contract. It was determined that the services under these Agreements do not impact Board Policy No. 5.030, "Low Cost Labor Resource Program", because of the specialized financial services required.

No Contract terms and conditions have been changed. Metavante agrees that it will be bound by all terms, covenants, conditions, provisions and obligations of the Contract. Link2Gov will continue to be a party to the Contract and perform all of the services originally contracted for.

CONTRACTING PROCESS

Link2Gov was selected based on a competitive solicitation issued in May of 2005. The Link2Gov proposal remains unchanged.

Neither Metavante nor Link2Gov are on the County's list of debarred contractors. The audited financial statements of Metavante for the years ended December 31, 2006 and 2007 and a comprehensive Dunn & Bradstreet report dated August 7, 2008 were reviewed by the Department in conjunction with this assignment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Contract will continue to facilitate the implementation of E-Commerce applications by County departments, districts and treasury pool participants. It will increase the acceptance of credit/debit card payments made in person, through the mail, or over the telephone.

CONCLUSION

Approval of this amendment will allow the County to continue to provide electronic payment and credit/debit card processing services with no disruption in service.

Upon Board approval, the Executive Officer, Board of Supervisors, is requested to return one adopted stamped Board letter to ISD as well as two original signed amendments.

Respectfully submitted,



Tom Tindall
Director

TT:MG:SMH

Attachment (1)

c: Chief Executive Officer
County Counsel

**AMENDMENT 1 TO CONTRACT FOR ELECTRONIC PAYMENT AND CREDIT/DEBIT
CARD PAYMENT PROCESSING SERVICES:
ASSIGNMENT AND ASSUMPTION AND CONSENT TO ASSIGNMENT AND
ASSUMPTION**

Contract No. 75621

WHEREAS, this Contract for Electronic Payment and Credit/Debit Card Payment Processing Services was made and entered into March 21, 2006 (together with all exhibits and attachments thereto, "Contract") by and between the County of Los Angeles, hereinafter referred to as "County," and Link2Gov Corporation, a Tennessee corporation ("Link2Gov"), and Marshall & Ilsley Corporation, a Wisconsin corporation ("Marshall & Ilsley");

WHEREAS, at the time of execution of the Contract, Link2Gov was a wholly-owned subsidiary of Metavante Corporation, a Wisconsin corporation ("Metavante"), which in turn was a wholly-owned subsidiary of Marshall & Ilsley;

WHEREAS, effective as of November 1, 2007, Marshall & Ilsley and Metavante separated into two publicly traded companies;

WHEREAS, Link2Gov continues to be a wholly-owned subsidiary of Metavante;

WHEREAS, Marshall & Ilsley and Link2Gov are jointly and severally the "Contractor" under and as defined in the Contract;

WHEREAS, Marshall & Ilsley desires to assign its rights and delegate its duties and obligations as a joint and several Contractor under the Contract to Metavante, as well as under (a) any and all Work Order Releases which have been executed under and as defined in the Contract and (b) any and all related documents which have been executed in connection with the Contract (the items referenced in clauses (a) and (b) collectively referred to as "Contract Documents"), and Metavante desires to assume such rights, duties and obligations under the Contract and under the Contract Documents;

WHEREAS, Under Sub-paragraph 8.1.1 of Sub-paragraph 8.1 – Assignment and Delegation of this Contract, the Contractor must obtain County's prior written consent, among other things, to assign the Contractor's rights and/or delegate the Contractor's duties under the Contract;

WHEREAS, Sub-paragraph 8.4.3 of Sub-paragraph 8.4 – Change Orders, Notices and Amendments of this Contract requires that any change that, among other things, provides an approval under Sub-paragraph 8.1 – Assignment and Delegation shall be executed by County's Board of Supervisors and Contractor;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the parties agree as follows:

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1. Effective Date. This Amendment 1, Assignment and Assumption and Consent to Assignment and Assumption ("Amendment 1") is effective as of DEC. 16, 2008 ("Effective Date"), which is the date as of which this Amendment 1 has been executed by an authorized agent of each of Marshall & Ilsley, Metavante and Link2Gov and has been approved by County's Board of Supervisors.
2. Incorporation of Recitals. The recitals to this Amendment 1 are incorporated into the body of this Amendment 1 as if set forth herein.
3. Assignment, Delegation and Assumption; Acknowledgement. Marshall & Ilsley assigns, transfers and conveys to Metavante all of Marshall & Ilsley's right, title and interest in and to, and delegates to Metavante all of Marshall & Ilsley's duties and obligations under the Contract and the Contract Documents. Metavante accepts the assignment to it by Marshall & Ilsley of Marshall & Ilsley's right, title and interest in and to, and the delegation to it by Marshall & Ilsley of all of Marshall & Ilsley's duties and obligations under, the Contract and the Contract Documents. Metavante covenants that it (a) will perform at its own expense all duties and obligations imposed on Marshall & Ilsley under the Contract and the Contract Documents and (b) will be bound by all terms, covenants, conditions, provisions and obligations of Marshall & Ilsley under the Contract and the Contract Documents. Link2Gov acknowledges and agrees with the assignment and delegation by Marshall & Ilsley and the assumption by Metavante described in this Paragraph 3.
4. Consent to Assignment, Delegation and Assumption. The County consents to the assignment and delegation by Marshall & Ilsley and assumption by Metavante described in Paragraph 3. This consent is strictly limited to such assignment, delegation and assumption and shall not be construed to extend to any future assignment, delegation and/or assumption or to any other future transaction requiring the prior written consent of County under Subparagraph 8.1 – Assignment and Delegation of the Contract or otherwise.
5. Amendments to Contract.
 - a. All references in the Contract to the name "Marshall & Ilsley Corporation" shall be amended to read "Metavante Corporation."
 - b. All references in the Contract to the defined term "Contractor" shall be interpreted to mean Link2Gov and Metavante, jointly and severally.
 - c. Subparagraph 7.5.1 of the Contract is amended and restated in its entirety as follows:

7.5.1 Contractor shall maintain the confidentiality of all records and information in accordance with all

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applicable federal, State and local laws, rules, regulations ordinances, directives, guidelines, policies and procedures and all Card Issuer and Association Rules, in each case, relating to confidentiality.

- d. Subparagraph 8.22 (Indemnification) of the Contract is amended to delete the last sentence of such Subparagraph and to replace it with the following:

Without limiting the generality of the foregoing, the Contractor's indemnification obligation extends to any losses and any fines, penalties and/or assessments imposed upon any Indemnified Party, including, without limitation, for failure to comply with the terms and conditions of this Contract, including, without limitation, service level standards set forth in Exhibit A – Service Level Agreement Matrix. Any legal defense pursuant to Contractor's indemnification obligations under this Subparagraph 8.22 shall be conducted by Contractor and performed by counsel selected by Contractor and reasonably acceptable to the County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event that Contractor declines to provide a defense to County, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

- e. Subparagraph 8.23.7 is added to the Contract in the proper numerical order as follows:

**8.23.7 Review of Insurance Coverage Requirements;
Performance Security:**

In connection with each Work Order Release, County reserves the right to review and modify the required insurance coverages and amounts which must be maintained by Contractor, should County determine risk exposures have changed due to increased Transaction volume anticipated as a result of such Work Order Release. Additionally in connection with each Work Order Release, County reserves the right to require that Contractor provide performance security for the Work Order in a form and in an

amount satisfactory to County, should County determine risk exposures have changed due to increased Transaction volume anticipated as a result of such Work Order Release. Should Contractor not provide such performance security and/or additional insurance coverage, County may at its sole discretion decline to enter into the applicable Work Order Release (s) and/or terminate this Contract in whole or in part under the applicable termination provisions of this Contract. Any insurance or performance modifications shall be made through the execution of a mutually agreed upon amendment to the Contract.

6. Representations and Warranties. Each of Marshall & Ilsley, Metavante and Link2Gov represents and warrants on behalf of itself that the person executing this Amendment 1 on behalf of such entity is an authorized agent for such entity who has actual authority to bind such entity to each and every term, condition and obligation of this Amendment 1 and that all requirements of such entity have been fulfilled to provide such actual authority. Metavante and Link2Gov, jointly and severally as Contractor under the Contract and the Contract Documents, represent and warrant that the assignment and delegation is not intended to, and shall not, have any financial impact or service delivery impact whatsoever for County under the Contract and/or the Contract Documents.
7. Exhibit I. Exhibit I, Safely Surrendered Baby Law, to the Contract is deleted in its entirety and replaced with the attached Exhibit I, Safely Surrendered Baby Law.
8. No Other Changes. Neither the Contract nor the Contract Documents shall be changed in any respect except as expressly set forth in this Amendment 1.

(Signatures next page)

IN WITNESS WHEREOF, Contractor has executed this Amendment 1, or caused it to be duly executed and the County of Los Angeles, by order of its Board of Supervisors has caused this Amendment 1 to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

CONTRACTOR: METAVANTE CORPORATION

By *Bruce Hopkins*
 Name BRUCE HOPKINS
 Title DIVISION PRESIDENT

CONTRACTOR: LINK2GOV CORP.

By *Holly Huggins*
 Name HOLLY HUGGINS
 Title VP & GEN MGR

CONTRACTOR: MARSHALL & ILSLEY CORPORATION

By *John L. Roberts*
 Name JOHN L. ROBERTS
 Title SUP

COUNTY OF LOS ANGELES

By *Don Krake*
 Chair, Board of Supervisors

ATTEST:

SACHI HAMAI
 Executive Officer-Clerk
 of the Board of Supervisors

By *[Signature]*
 Deputy

APPROVED AS TO FORM

RAYMOND G. FORTNER, JR.
 County Counsel

By *Amanda Drukker*
 AMANDA DRUKKER
 Deputy County Counsel



I hereby certify that pursuant to
 Section 25103 of the Government Code,
 delivery of this document has been made.

SACHI A. HAMAI
 Executive Officer
 Clerk of the Board of Supervisors

By *[Signature]*
 Deputy

ADOPTED
 BOARD OF SUPERVISORS
 COUNTY OF LOS ANGELES

14 DEC 16 2008

Sachi A. Hamai
 SACHI A. HAMAI
 EXECUTIVE OFFICER

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